



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,242	08/17/2000	Tomas Andrysek	UD&LP049	7359
530	7590	12/13/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
---------------	-------------	-----------------------	---------------------

09/642242

EXAMINER
----------

ART UNIT	PAPER NUMBER
----------	--------------

2006/1208

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Please see the attached communication regarding the paper filed 10/18/06.

As indicated in the Office action mailed 6/13/06, The response filed 7/29/03 directed the amendment of claims 2, 25, 27, 29, 33, 34, the cancellation of claim 31, and the addition of claims 35-52. At that point, claims 1-30 and 32-52 were pending; these claims remain pending at present.



The amendment filed 7/29/03 (and/or 8/6/03) attempts to change the claimed subject matter from an elected composition to a non-elected composition. As such, applicants are held to be "non-responsive". As a reminder to applicants, the restriction that was mailed on 6/28/01 was the following:

- I. Claims 1, 6, 8, 10, 13, 15, 17, 20, 22, 24, 26, 28, drawn to a method of increasing viscosity.
- II. Claims 2, 25, 27, 29, 31, drawn to a composition that does not require the presence of alcohols.
- III. Claim 30, drawn to a composition that comprises the ingredients of the Group II, together with other specific compounds.
- IV. Claims 3, 5, 7, 9, 11, 12, 14, 16, 18, 19, 21, 23, 32, drawn to a composition that requires the presence of alcohols.

In response to the foregoing, applicants elected Group II. There was no indication that the elected claims could or did contain any alcohols. Moreover, the restriction specified that this group is drawn to formulations in which alcohols were not required (or,

for that matter, even permitted). At the same time, Group IV was drawn to a formulation in which the presence of an alcohol was required. Applicants chose not to elect the group in which alcohols were present. Further, applicants, at that time, presented no evidence or reasoning as to why a "first" formulation which does not contain an alcohol is obvious over a "second" formulation which does contain an alcohol, or *vice versa*. Nor have applicants presented any such evidence or reasoning subsequent to the restriction. What applicants are essentially attempting to do by the amendment (filed 7/29/03 and/or 8/6/03) is to change the election from Group II to Group IV. However, a change in the election is not a matter of right.

What is required in response to this Office action is to present claims which are consistent with the restriction that was mailed on 6/28/01, and applicants' election in response thereto. Thus, what is required in response to this Office action is to amend the claims so as to include the subject matter of Group II, while at the same time, avoiding the subject matter of Group IV.

This Office action supercedes that which was mailed on 6/13/06. That Office action indicated that filing an RCE would be an option. However, the legal instrument examiner in charge of the application has chosen not to enter the RCE until and unless a final Office action is mailed. Thus, perhaps the simplest option here would be to submit the same claims that were presented on 10/29/02; if this is done, an Office

action substantially the same as that mailed 1/29/03 can then be mailed and the rejection made final. At that point, an RCE will become an option for applicants.

. . . . .

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**



Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 571-272-0952. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can be reached at (571)272-0562. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



DAVID LUKTON, PH.D.  
PRIMARY EXAMINER